

SENATE BILL REPORT

HB 1021

As of March 21, 2011

Title: An act relating to persons appointed by the court to provide information in family law and adoption cases.

Brief Description: Concerning persons appointed by the court to provide information in family law and adoption cases.

Sponsors: Representatives Goodman, Rodne, Pedersen, Roberts, Kagi, Kenney, Appleton and Maxwell.

Brief History: Passed House: 3/07/11, 96-0.

Committee Activity: Human Services & Corrections: 3/15/11.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Jennifer Strus (786-7316)

Background: Guardians Ad Litem in Adoption Cases. In adoption proceedings, the court must appoint a guardian ad litem (GAL) for any alleged parent under 18 years of age. Among other duties, the GAL must report to the court whether any written consent by the parent to relinquish the child for adoption was made voluntarily. The county in which a petition is filed in an adoption proceeding must pay the fees of a court-appointed GAL or attorney.

In some cases, the child being adopted has been the subject of earlier dependency proceedings, which means the state has terminated the parent's parental rights to the child. In a dependency proceeding, the court determines if a child should be considered a dependent of the state because of abuse; neglect; abandonment; or because there is no parent, guardian, or custodian capable of caring for the child. Once a child is found dependent, the court periodically reviews the case and makes determinations about the parent's progress in correcting parental deficiencies. If the parent fails to take corrective measures needed for the child to safely return home, the court can eventually terminate the parent's parental rights. The parent has the right to an attorney in dependency proceedings.

Investigators and GALs in Family Law Cases. In dissolution cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. The court may order an investigation and report

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concerning parenting arrangements, may appoint a GAL, or both. The investigation and report may be made by a GAL, the staff of the court, or a professional social service organization experienced in counseling children. Some family law courts have full- or part-time investigators that work for the court. The term investigator is used in the statutes but not defined.

In counties with a court-appointed special advocate (CASA) program for family law cases, the court may appoint a GAL from the CASA program. The GALs and CASAs must comply with certain training requirements developed by the Administrative Office of the Courts.

Generally, the court must specify the hourly rate a GAL may charge and specify the maximum amount the GAL may charge without additional court approval. The court must specify rates and fees in the order appointing the GAL or at the earliest date the court is able to determine the appropriate rates and fees.

Summary of Bill: GALs in Adoption Cases. If the child in the adoption proceeding is a dependent child and the minor parent of the child is represented by an attorney or a GAL in the dependency proceeding, the court may rely on the parent's dependency attorney or the GAL to report to the court regarding the voluntariness of any written consent to adoption or petition for relinquishment signed by the parent.

When a GAL is appointed in an adoption case, the court must direct who is to pay the GAL's fee. If the court orders the parties to pay the GAL fee, the fee must be established under the same procedures that GAL fees are established in family law cases.

Investigators. The term investigator is defined to mean a person appointed by the court as a full- or part-time assistant to the court, or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan. It is made explicit that the court may appoint an investigator in family law cases to make recommendations to the court.

Investigators who are not supervised by a GAL or a CASA program must comply with the training requirements applicable to GALs or CASAs.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The main motivation behind sponsoring this bill was the charging of excessive fees by guardians ad litem in adoption cases. These fees are passed down to adoptive families and that can be a financial hardship on those families. This is pretty much a technical bill. This bill corrects an outdated practice – an unfunded mandate to counties to pay GAL fees. It puts into statute what counties are currently doing in this regard.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Mark Demaray, Adoption Attorney.